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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,334	11/09/2001	Hidekazu Nakai	275788US6	5902
22850 7590 01/24/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SCUDERI, PHILIP S	
			ART UNIT 2153	PAPER NUMBER
			NOTIFICATION DATE 01/24/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/037,334

Applicant(s)

NAKAI, HIDEKAZU

Examiner

Philip S. Scuderi

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 10/31/2007 has been entered.

Response to Arguments

Applicant's arguments filed 10/31/2007 (herein "Remarks") have been fully considered but they are not persuasive.

Applicant argues that Hosoe does not teach that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes one or more of content data names, use limitations, and prices.

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was extremely well known in the art. For example, the enclosed archive of ticketmaster.com shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoe (U.S. Patent No. 6,047,376) in view of Ticketmaster (Dave Matthews Band ticket information, printed from the 8/25/2001 archive of ticketmaster.com).

As to claim 1, Hosoe teaches a recording medium, comprising:

a first storage region, wherein program information (first program) is stored describing a procedure configured to execute a process to establish a connection to a predetermined server (38) over a predetermined communication network (100) and download data from the connected server (38) [see fig. 2, col. 8, ll. 22-38 (first program is stored on the medium)];

a second storage region into which the data can be written (any writable storage region) [see fig. 2, col. 4, ll. 49-65 (the memory medium can be writable, e.g., a floppy disk)]; and

a third storage region having an ID (identification number) unique to said recording medium stored therein, wherein at least part of data from the server (38) includes a list of selectable content data (music information comprising artist information, new music, and concert information) based on the unique ID (identification number) [see fig. 2, 7, col. 7, ll. 29-54].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claims 3-5, the ID (identification number) can be utilized by said server (38) to manage accounting for the downloaded data, identify a type of the download data, or supply source of the download data [see col. 6, ll. 41-49]. Note that to meet these claims the server only needs to be capable of utilizing the ID to manage accounting etc.

As to claim 6, Hosoe teaches a downloading method, comprising:

a readout step of reading out program information (first program), from a recording medium (35) having a first storage region wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) over a predetermined communication network (the WWW) and downloading data (music information comprising artist information, new music, and concert information) from the connected server (38) is stored, a second storage region into which the data can be written (any writable region capable of storing the music information), and a third storage region having an ID unique (identification number) to said recording medium stored therein [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38 (first program is stored on the medium)];

an access step of accessing said server (38) in accordance with the read out program information (first program) [see col. 8, ll. 22-38];

an acquiring step of acquiring a list of selectable content data (music information comprising artist information, new music, and concert information) based on the medium ID (identification number) [see fig. 7, col. 7, ll. 28-54];

a transferring step of transferring the list of content data (music information comprising artist information, new music, and concert information) [see fig. 7, col. 7, ll. 28-54]; and

a download step of downloading required data (music information comprising artist information, new music, and concert information) from said server (38) accessed in accordance with the read out program information (first program) [see fig. 7, col. 7, ll. 28-54].

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65], which is clearly enough evidence to establish that it was within the technical grasp of one of ordinary skill in the art to write data to a disk. It would have been obvious to one of ordinary skill in the art to store the data acquired by the download on the medium because the data acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information

would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 7, Hosoe teaches a recording apparatus, comprising:

a readout unit configured to read out program information (first program) and a unique ID (identification number) from a recording medium, wherein the program information describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data from the server (38), the unique ID (identification number) is information which can be utilized by the server to manage accounting for the downloaded data [see fig. 2, col. 8, ll. 22-38 (first program is stored on the medium)];

a memory configured to be able to store data [see fig. 2, col. 4, ll. 49-65 (the memory medium can be writable)];

a display device (display device 23) configured to display (capable of displaying) a list of selectable content data (music information comprising artist information, new music, and concert information) transmitted from the server (38) and based on the unique ID (identification number) [see fig. 1, 7, col. 5, ll. 1-10]; and

a controller configured to control (capable of controlling) downloading required from the server (38) in accordance with the read out program information (first program), and store the data acquired by the downloading with identification information indicating a relationship to the program information into the memory [see fig. 2].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies

any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 8, Hosoe teaches a recording apparatus, comprising:

means for reading out program information (first program) and a unique ID (identification number) from a recording medium (35), wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data (music information comprising artist information, new music, and concert information) from the server (38), the unique ID (identification number) is information which can be (is capable of being) utilized by the server (38) to manage accounting for the downloaded data (music information comprising artist information, new music, and concert information) [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38 (first program is stored on the medium)];

means for storing data [see col. 4, ll. 49-65 (the medium can be writable, e.g., a floppy disk)];

means for displaying (display device 23 and/or CPU 11) a list of selectable content data (music information comprising artist information, new music, and concert information) transmitted from the server and based on the unique ID (identification number) [see fig. 1, 7, col. 5, ll. 1-10]; and

means for controlling a download of required data from the server (38) in accordance with the read out program information (first program) [see fig. 2].

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65], which is clearly enough evidence to establish that it was within the technical grasp of one of ordinary skill in the art to write data to a disk. It would have been obvious to one of ordinary skill in the art to store the data acquired by the download on the medium because the data acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 9, Hosoe teaches a recording method for a recording apparatus having a memory, comprising:

a readout step of reading out program information (first program) and a unique ID (identification number) from a recording medium (35), wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data (music information comprising artist information, new music, and concert information) from the server (38), the unique ID (identification number) is information which can be utilized by the server (38) to manage accounting for the downloaded data (music information comprising artist information, new music, and concert information) [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38 (first program is stored on the medium)]; and

a downloading step of downloading required data (music information) from the server (38) in accordance with the read out program information (first program) [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38]; and

wherein at least a part of data (music information comprising artist information, new music, and concert information) provided by the server (38) includes a list of selectable content data (music information comprising artist information, new music, and concert information) based on the unique ID (identification number) [see fig. 2, col. 7, ll. 28-54, col. 8, ll. 22-38].

Hosoe does not expressly disclose storing the data acquired by the downloading into the second storage area of the storage medium. Hosoe discloses that the medium can be a writable medium such as a floppy disk [see col. 4, ll. 49-65], which is clearly enough evidence to establish that it was within the technical grasp of one of ordinary skill in the art to write data to a disk. It would have been obvious to one of ordinary skill in the art to store the data acquired by the download on the medium because the data acquired is data that is desired by the user of the medium [see col. 7, ll. 36-39].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 10, Hosoe teaches a playback apparatus comprising:

a readout unit configured to read out program information (first program) and a unique ID (identification number) from a recording medium, wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data from the server (38), the unique ID (identification number) is information which can be utilized by the server (38) to manage accounting for the downloaded data [see fig. 2].

a memory configured to store content data with identification information indication a relationship to the program information [see fig. 2, col. 4, ll. 49-65 (the memory medium can be writable)];

a display device (display device 23) configured to display (capable of displaying) a list of selectable content data (music information comprising artist information, new music, and concert information) transmitted from the server (38) and based on the unique ID (identification number) [see fig. 1, 7, col. 5, ll. 1-10]; and

a controller configured to playback the content data based on the read out program information [see fig. 2].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any

reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 11, Hosoe teaches a playback apparatus comprising:

means for reading out program information (first program) and a unique ID (identification number) from a recording medium, wherein the program information (first program) describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data from the server, the unique ID (identification number) is information which can be utilized by the server (38) to manage accounting for the downloaded data [see fig. 2, col. 8, ll. 22-38 (first program is stored on the medium)];

means for storing content data (e.g., music) with identification information (identification number) indicating a relationship to the program information (stored on the same media) [see fig. 2]; and

means for displaying (display device 23) a list of selectable content data (music information comprising artist information, new music, and concert information) transmitted from the server (38) and based on the unique ID (identification number) [see fig. 1, 7, col. 5, ll. 1-10]; and

means for playback of the content data (e.g., music) based on the read out program information (e.g., based on information obtained from a music information service using the first program) [see fig. 2, col. 7, ll. 29-54].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

As to claim 12, Hosoe teaches a playback method for a playback apparatus having a memory comprising:

a readout step of reading out program information (first program) and a unique ID (identification number) from a recording medium, wherein the program information (first program)

describes a procedure for executing a process for establishing a connection to a predetermined server (38) and downloading data from the server (38), the unique ID (identification number) is information which can be utilized by the server to manage accounting for the downloaded data [see fig. 2];

a playback step of playback content data (e.g., music) with identification information (identification number) indicating a relationship to (stored on the same media) the program information (first program) from the memory based on the read out program information (e.g., based on information obtained from a music information service using the first program) [see fig. 2, col. 7, ll. 29-54];

an acquiring step of acquiring a list of selectable content data (music information comprising artist information, new music, and concert information) based on the unique ID (identification number) [see fig. 7, col. 7, ll. 28-54]; and

a transferring step of transferring the list of content data (music information comprising artist information, new music, and concert information) [see fig. 7, col. 7, ll. 28-54].

Hosoe does not expressly disclose that the list of selectable content data (the music information comprising artist information, new music, and concert information) includes content data names. The examiner interprets a content data name to mean any information that identifies any content data. Accordingly, to meet the limitation at issue, the music information (including artist, new music, or concert information, as disclosed by Hosoe) merely needs to include any information that identifies any content data. For example, if the concert information made any reference to the artist by name (e.g., artist X is playing in city Y) then Hosoe's disclosure would meet this limitation.

Including an artist's name or similar identifying information when communicating, for example, an artist's concert information was well known in the art. For example, Ticketmaster shows concert information (city, date, etc.) with an artist's name (Dave Matthews Band).

One of ordinary skill in the art would readily appreciate that including the artist's name or similar identifying information when communicating, for example, an artist's concert information would have been logical and generally beneficial because it would allow the recipient to conveniently identify the associated artist.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Philip S Scuderi/

U. Barqade
~~Scuderi~~